

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND DIVISION**

BASIC ENERGY SERVICES, INC.
Plaintiff

VERSUS

LIBERTY MUTUAL INSURANCE COMPANY
Defendant

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CAUSE NO. M0-08-CV078

MOTION TO VACATE ORDER AND DISMISS WITH PREJUDICE

COME NOW, the parties in the above-captioned matter, by and through their undersigned counsel of record, and hereby move, pursuant to Rule 60(b) of the Federal Rules of Civil Procedure, that the Court vacate, set aside and depublish the Order of September 19, 2009 and further move, pursuant to Rule 41 of the Federal Rules of Civil Procedure, for dismissal of this matter, with prejudice, each party to bear their own costs.

In support of the Motion, the undersigned parties show to the Court that Rule 60(b) of the Federal Rules of Civil Procedure provides that "On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: . . . (5) the judgment has been satisfied, released, or discharged . . . ; or (6) any other reason that justifies relief."

The parties have reached a settlement agreement fully compromising their respective disputes and claims in this action, part of which agreement is for the parties jointly to move to vacate, set aside and depublish the Court's Order dated September 18, 2009. Accordingly, as the Court's Order is rendered moot, the parties move that it be vacated, set aside and depublished.

WHEREFORE, the parties pray for the Court to enter an Order vacating, setting aside and depublishing the Order of September 19, 2009 (Filing No. 68) and dismissing the case with prejudice, each party to bear its own costs.

Respectfully submitted,

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ATTORNEYS FOR DEFENDANT
LIBERTY MUTUAL INSURANCE COMPANY

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ORDER

Pending before the Court is the Joint Motion to Vacate Order and Dismiss With Prejudice of Plaintiff, Basic Energy Services, Inc., and Defendant, Liberty Mutual Insurance Co. After due consideration, the Court is of the opinion that the Motion should be GRANTED. It is therefore,

ORDERED that the Court's Order of September 19, 2009 is vacated, set aside and depublished. It is further

ORDERED that the action is dismissed, with prejudice, each party to bear its own costs.

SIGNED this _____ day of _____, 2010.

Robert Junell
United States District Judge
Western District of Texas